

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRED DAVIS and DEPARTMENT OF THE NAVY,
MILITARY SEALIFT COMMAND, Virginia Beach, VA

*Docket No. 00-2412; Submitted on the Record;
Issued June 18, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant met his burden of proof in establishing that his sleep disorder was caused by his federal employment.

On October 26, 1999 appellant, then a 59-year-old supply utility man, filed a notice of occupational disease claiming that his hypersomnolence, a sleep disorder, was caused by his federal employment. He worked on board a ship as a utility man making bunks, cleaning rooms and passageways, working in the galley and serving meals. Appellant submitted a copy of his employment application, a job description, a copy of his resignation and progress notes dated August 18 to August 20, 1999. He resigned from his duties effective November 1, 1996.

The progress notes submitted by appellant indicated that he was admitted to a Veterans Administration hospital from August 18 to August 20, 1999 for sleep disorder testing and at that time was diagnosed with "daytime hypersomnolence" by Dr. James M. Brown. The hospital progress report dated August 19, 1999 indicated that appellant's sleepiness became worse after he gained 50 pounds when working as a cook on the ship.

By letter dated November 30, 1999, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical information to support his claim.

The Office received a statement dated December 8, 1999 from appellant's employer, stating that, while sailing in the military command vessels for six months at a time, appellant "could have been" exposed to various conditions while working in confined spaces of the vessel. No additional information was received.

By decision dated January 12, 1999, the Office denied appellant's claim for compensation as the evidence was insufficient to establish fact of injury.

By letter dated February 1, 2000, appellant identified employment factors which he believed caused his sleep disorder and also requested a review of the written record. He stated

that he believed his condition was caused by exposure to or the use of equipment, products and materials on the ship and that he was also exposed to asbestos, silica and asbestos fibers and dust on the vessel. He alleged that working in and around the entire area of the ship for five months at a time during the summer months contributed to his overall condition.

Appellant also submitted a hand-written narrative statement dated December 29, 1999, in which he again identified employment factors alleged to have contributed to his condition. He stated: “The doctor who is treating me cannot document that that condition started from being on active duty in the gulf but he does substantiate I have a condition known as hypersomnolence a sleep disorder consisting of the need for excessive amounts of sleep and of sleepiness when awake and this is what the symptoms are.”

The Office also received a letter from appellant dated April 21, 2000, in which he alleged that he was the victim of workplace violence from the chief chef aboard the ship. He indicated that his sleep disorder started around the time of the violence and alleged that his condition was caused by this work-related stress and his fear of repetitive aggressive violence.

By decision dated June 7, 2000, the hearing representative affirmed the Office’s January 12, 1999 decision.

The Board finds that appellant has not met his burden of proof in establishing that his condition was caused by his federal employment.

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ *Vicky L. Hannis*, 48 ECAB 538 (1997).

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

In this case, appellant alleged that his condition was caused by exposure to or the use of equipment and materials on the ship and that he was exposed to asbestos, silica and dust on the vessel. He stated that working in and around the ship for five months at a time during the summer months contributed to his overall condition. Appellant also indicated that his sleep disorder started around the time of the alleged violence and that his condition was caused by this work-related stress. He admitted, however, that his treating physician could not document that his condition was caused by his active duty in the gulf.

Appellant submitted progress notes for sleep tests which diagnosed him with daytime hypersomnolence. However, these notes do not establish a causal connection between appellant's sleep disorder and his federal employment.

Regarding causal relationship, Dr. Brown, in his August 19, 1999 report, indicated: "I gather [appellant] has had daytime fatigue for some years with considerable difficulty falling asleep while driving. He has had near misses but not accidents." Dr. Brown also indicated that appellant's condition worsened when he gained 50 pounds while on board the ship and that appellant had tried to lose weight but was unsuccessful. Appellant has not alleged that his weight gain was sustained in the performance of duty. Moreover, Dr. Brown did not explain why appellant's weight gain would physiologically cause hypersomnolence. The medical evidence lacks a well-rationalized medical report from Dr. Brown which explains how appellant's federal employment caused or contributed to his sleep disorder condition.

The medical evidence of record diagnoses appellant with hypersomnolence, yet offers no medical explanation of the causal relationship between the diagnosed condition and appellant's employment. A physician's opinion regarding causal relationship, which is not fortified by medical rationale is of limited probative value.⁶

⁵ *Delores C. Ellyett, supra* note 3; *Ruthie M. Evans, supra* note 3.

⁶ *Marilyn D. Polk, 44 ECAB 673 (1993).*

The June 7, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 18, 2001

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member